



Indian and Northern
Affairs Canada

Affaires indiennes
et du Nord Canada

ESTIMATES OF DEMOGRAPHIC IMPLICATIONS FROM INDIAN REGISTRATION AMENDMENT



McIvor v. Canada

March 2010



Canada

Published under the authority of the
Minister of Indian Affairs and Northern
Development and Federal Interlocutor for
Métis and Non-Status Indians
Ottawa, 2010

www.inac-ainc.gc.ca

1-800-567-9604

TTY only 1-866-553-0554

QS-1003-000-EE-A1

Catalogue No. R3-122/2010E-PDF

ISBN 978-1-100-15132-8

- © Minister of Public Works and Government
Services Canada

ESTIMATES OF DEMOGRAPHIC IMPLICATIONS FROM INDIAN REGISTRATION AMENDMENT

Table of Contents

| | |
|---|---|
| Introduction | 1 |
| The Amendment Concept | 1 |
| Estimates of Immediate Entitlement to Indian Registration | 1 |
| Demographic Projections of the Newly Entitled Population | 3 |
| Estimates of Immediate Entitlement to First Nation Membership | 6 |
| Additional Factors Affecting the On-Reserve Population | 6 |

ESTIMATES OF DEMOGRAPHIC IMPLICATIONS FROM INDIAN REGISTRATION AMENDMENT

Mclvor v. Canada

INTRODUCTION

The following is a summary of the work to date estimating demographic impacts to the Registered Indian and First Nation Membership populations in accordance with the British Columbia Court of Appeal Mclvor decision of April, 2009. Both short and longer-term demographic estimates have been undertaken by Stewart Clatworthy of Four Directions Consulting Ltd., a leading expert in the field of Aboriginal demography.

THE AMENDMENT CONCEPT

The amendment concept that was provided to Mr. Clatworthy to undertake the demographic analysis would provide Indian registration under Section 6(2) of the *Indian Act* to any grandchild of a woman:

- a. who lost status due to marrying a non-Indian; and
- b. whose children born of that marriage had the grandchild with a non-Indian after September 4, 1951.

To accomplish this, Section 6(1) of the *Indian Act* would be amended to include any person in the situation of the "child" mentioned in (b) above.

ESTIMATES OF IMMEDIATE ENTITLEMENT TO INDIAN REGISTRATION

The demographic analysis for estimating immediate entitlement to Indian registration was done in three stages. Prior to estimating

those who may be newly entitled to Section 6(2) status (stage 2), it was first necessary to determine the population of individuals who may be able to change their registration category from Section 6(2) to Section 6(1) (stage 1). Finally, to estimate those newly entitled to registration, it was necessary to consider the September 4, 1951 parenting condition for eligibility (stage 3).

Stage 1

Mr. Clatworthy was able to begin this stage of the research by building upon previous analysis using data contained on the December 31, 2004 Indian Register. Mr. Clatworthy had estimated that 37,250 individuals registered under Section 6(2) had mothers registered under Section 6(1)c.

Additional information from the Indian Register was made available for the Mclvor analysis. This information comes from children registered under Section 6(2) whose mother's registration detail is incomplete or missing in the Indian Register. A sampling of this new information linking back to older data sources revealed a high proportion of these mothers who had lost their registration status through marriage. This new information allows for a more complete identification of individuals currently registered under Section 6(2) who may become eligible for Section 6(1) status.

Mr. Clatworthy, based on this new information, estimated that as of December 31, 2004, 51,750 individuals registered under Section 6(2) have mothers entitled to registration under Section 6(1)c. This group represents those individuals who may be able to change their Registered Indian category from Section 6(2) to Section 6(1). Approximately 15% of these individuals were identified to be resident on reserve.

Stage 2

This stage of the analysis involved estimating the numbers of individuals who may be newly entitled to Section 6(2) status who are descended from women who had 'married out' (i.e. their grandchildren). Information from the Indian Register that links children with their parents was used to develop age-specific child/parent ratios, by on/off reserve and by region, which could be applied to the population of those who may be impacted by the proposed legislative amendment. It was assumed that parenting patterns and rates of fertility of those newly impacted would be equivalent to that observed for the population currently on the Indian Register.

As of December 31, 2004, Mr. Clatworthy estimated that 42,850 individuals (1st generation children of those changing their Registered Indian category from Section 6(2) to Section 6(1)) may

be newly entitled to Section 6(2) status. Approximately 5.3% of these individuals were identified to be resident on reserve.

Stage 3

A condition of these 1st generation children gaining Section 6(2) registration entitlement under the legislative amendment concept is that they must have been born after September 4, 1951, or if they were born on or before September 4, 1951 they would have to have at least one sibling born after that date to be eligible. This latter stipulation was designed to avoid siblings being treated differently based on their date of birth. Using Indian Register data for children registered under Section 6(2), a series of probabilities were developed to estimate the likelihood that a child born on or before September 4, 1951 has a sibling born after that date. These probabilities were then applied to those who may be newly entitled to registration under Section 6(2).

As of December 31, 2004, Mr. Clatworthy estimated that 39,763 individuals would be newly entitled to Section 6(2) status. Approximately 5.6% of these individuals were identified to be resident on reserve.

DEMOGRAPHIC PROJECTIONS OF THE NEWLY ENTITLED POPULATION

These 2004 estimates were projected to produce age, gender, region and location-specific population estimates at 5-year intervals spanning a 100-year time period. This provided the population estimates of those newly entitled to registration for 2009.

The projection models employ the following assumptions:

- Moderately declining fertility rates;
- Moderately increasing life expectancy;
- Consistent parenting patterns to those observed on the December 31, 2004 Indian Register;
- Moderately declining net migration to reserves, based on levels observed in the Canada Census from 1996 to 2001;
- Moderately declining rate of individuals acquiring registration through the 1985 passage of Bill C-31, *An Act to Amend the Indian Act*, which brought the *Indian Act* into line with the provisions of the *Canadian Charter of Rights and Freedoms*.

The following chart represents estimates of the projected incremental population newly entitled to Indian Registration by on/off reserve from 2004-2104.

| Year | Incremental Population | | |
|------|------------------------|-------------|--------|
| | On Reserve | Off Reserve | Total |
| 2004 | 2,216 | 37,547 | 39,763 |
| 2009 | 2,688 | 42,295 | 44,983 |
| 2014 | 3,110 | 46,308 | 49,418 |
| 2019 | 3,475 | 49,546 | 53,021 |
| 2024 | 3,774 | 51,953 | 55,728 |
| 2029 | 4,033 | 53,847 | 57,880 |
| 2034 | 4,288 | 55,556 | 59,844 |
| 2039 | 4,566 | 57,130 | 61,696 |
| 2044 | 4,874 | 58,572 | 63,446 |
| 2049 | 5,191 | 59,793 | 64,984 |
| 2054 | 5,492 | 60,725 | 66,217 |
| 2059 | 5,746 | 61,136 | 66,881 |
| 2064 | 5,934 | 60,882 | 66,816 |
| 2069 | 6,036 | 59,808 | 65,844 |
| 2074 | 5,989 | 57,460 | 63,449 |
| 2079 | 5,820 | 54,068 | 59,889 |
| 2084 | 5,624 | 50,314 | 55,938 |
| 2089 | 5,438 | 46,496 | 51,934 |
| 2094 | 5,256 | 42,828 | 48,084 |
| 2099 | 5,086 | 39,482 | 44,568 |
| 2104 | 4,939 | 36,501 | 41,441 |

Mr. Clatworthy estimated that 44,983 individuals would be newly entitled to registration in 2009, based on projections from the 2004 baseline estimates. Approximately 6.0% of these individuals were identified to be resident on reserve. The total population newly entitled to registration (who would not otherwise have been entitled to registration under the old rules) was estimated to continue to rise and peak at 66,881 in the year 2059. The on-reserve incremental increase was estimated to peak at 6,036 in the year 2069 and the off-reserve incremental increase to peak at 60,725 in the year 2054.

The newly entitled population for 2009 will be very young, with an estimated 39% under the age of 15, and 48% falling within the typical child-bearing age range of 15 to 44. The following chart represents the estimated incremental population of those newly

entitled to Indian Registration by age cohort and on/off reserve for 2009.

| Age Group (Years) | Average of Low and High Series | | |
|-------------------|--------------------------------|---------------|---------------|
| | On | Off | Total |
| 0-4 | 439 | 4,979 | 5,418 |
| 5-9 | 436 | 5,527 | 5,963 |
| 10-14 | 481 | 5,560 | 6,040 |
| 15-19 | 586 | 6,167 | 6,752 |
| 20-24 | 458 | 5,426 | 5,884 |
| 25-29 | 68 | 2,268 | 2,336 |
| 30-34 | 54 | 2,160 | 2,214 |
| 35-39 | 50 | 2,295 | 2,345 |
| 40-44 | 42 | 2,228 | 2,270 |
| 45-49 | 33 | 2,244 | 2,277 |
| 50-54 | 22 | 1,664 | 1,685 |
| 55-59 | 13 | 1,178 | 1,191 |
| 60-64 | 5 | 417 | 421 |
| 65-69 | 2 | 179 | 181 |
| 70-74 | 0 | 3 | 3 |
| 75-79 | 1 | 0 | 1 |
| 80-84 | 0 | 0 | 0 |
| 85+ | 0 | 0 | 0 |
| Total | 2,688 | 42,295 | 44,983 |

In addition, annual estimates were constructed for the first five years, from 2009 to 2014, by assuming a linear transition of the projection model's 5 year interval estimates.

The following chart represents the annual on/off reserve breakdown of the cumulative incremental population estimated to be newly entitled to registration from 2009 to 2014.

| Date | On-Reserve | Off-Reserve | Total |
|------|------------|-------------|--------|
| 2009 | 2,688 | 42,295 | 44,983 |
| 2010 | 2,772 | 43,098 | 45,870 |
| 2011 | 2,857 | 43,900 | 46,757 |
| 2012 | 2,941 | 44,703 | 47,644 |
| 2013 | 3,025 | 45,506 | 48,531 |
| 2014 | 3,110 | 46,308 | 49,418 |

ESTIMATES OF IMMEDIATE ENTITLEMENT TO FIRST NATION MEMBERSHIP

There is no automatic right to membership that is associated with the legislative amendment concept. Therefore it is not possible to estimate the population of new First Nation members for those First Nations (235) who determine their own memberships under Section 10 of the *Indian Act*, or otherwise under self-government arrangements. These First Nations will determine any potential new members in accordance with their chosen membership criteria. It is estimated that those First Nations whose memberships continue to be determined by the status inheritance rules of the *Indian Act* will have 28,584 individuals newly entitled to membership and Indian registration in 2009.

ADDITIONAL FACTORS AFFECTING THE ON-RESERVE POPULATION

Of the 2,688 individuals estimated by Mr. Clatworthy to be newly entitled to registration on reserve in 2009, the great majority are expected to be already resident on reserve. The 422 additional individuals estimated to be newly entitled to registration on reserve from 2009 to 2014 are made up of both new births and new migration to reserves (based on levels of net migration to reserves observed in the Canada Census from 1996 to 2001).

Mr. Clatworthy has estimated that an additional 247 non-entitled descendants, all under the age of 18, may be expected to move from off to on reserve with their newly entitled parent to the year 2014. This additional group of dependants would not gain Indian status, but are nevertheless important to take into consideration for reserve residency-based considerations. The following annual breakdown of the cumulative incremental on-reserve population, taking this group into consideration, was produced assuming a linear transition of the projection model's 5 year interval estimates.

| Date | Newly entitled on reserve | Non-entitled movers to reserve | Total |
|------|------------------------------|--------------------------------------|-------|
| 2009 | 2,688 | 122 | 2,810 |
| 2010 | 2,772 | 147 | 2,919 |
| 2011 | 2,857 | 172 | 3,029 |
| 2012 | 2,941 | 197 | 3,138 |
| 2013 | 3,025 | 222 | 3,247 |
| 2014 | 3,110 | 247 | 3,357 |

